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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,833	06/15/2001	Takeshi Kameta	Q64955	6595
7590	08/25/2005		EXAMINER	
SUGHRUE MION ZINN MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213			MILLER, CARL STUART	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/880,833	KAMETA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carl S. Miller	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) Claim(s) 20 and 21 is/are allowed.
- 6) Claim(s) 1-9, 12-14 and 16-18 is/are rejected.
- 7) Claim(s) 15 and 19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

Claims 10-11 and 13 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 5.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1–4, 6, 12-14, 16-17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Peppel.

Suzuki teaches a card battle game wherein the battles occur in stages and each character card increases its power by virtue of winning battles at lower stages. Suzuki does increase the power of an individual card available during later battles which increases the battle power of the character in the next battle sequence.

Peppel teaches the use of ETC's in adventure games wherein such created ETC's can function to augment a particular character/card or may be used as proof that a player has achieved a level of play in the game (such as winning a previous battle (see column 11, lines 4-15)).

Secondly, it should be noted that "a predetermined number of times (victories)" could be one time and a "certain stage" could be any stage, thereby making these limitations taught by Suzuki.

Finally, Peppel also teaches sets of cards that differ from each other and teaches the use of an external computer medium to store information.

It would have been obvious to modify Suzuki by using additional cards to signify the additional power created by previous character victories as suggested by Peppel because the latter specifically suggested that his system would be useful in an adventure or war game environment.

Claims 5, 7, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki and Peppel as applied to claim 1 above, and further in view of Matsuno.

Matsuno teaches the use of "enable flags" by a control device in order to reference stored information from a data storage area.

Since this was a standard information retrieval technique, it would have been obvious to use this method to retrieve information in Suzuki.

Claims 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20 and 21 are allowed.

Applicant's arguments filed June 8, 2005 have been fully considered but they are not persuasive. In particular, the applicant has argued that Suzuki does not teach the use of cards *per se*, but this does not mean that the reference does not teach the type of battles used in the applicant's games. Furthermore, Peppel does teach the use of additional cards when the characters reach new levels in the game and such a new

level would be the winning of previous battles. In short, Peppel provides the card battle feature that the applicant says is lacking in Suzuki and teaches using additional cards attached to original cards in subsequent situations. The battles and the increase in character power in later battles are clearly taught by Suzuki.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is 571-272-4849. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry YUEN, can be reached at 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl S. Miller  
Primary Examiner